

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be reimbursement of \$42,000.00 for dates of service 08/02/01 through 09/14/01.
- b. The request was received on 06/20/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60
 - b. HCFAs
 - c. TWCC 62 forms
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. TWCC 60 and Response to a Request for Dispute Resolution dated
 - b. HCFAs
 - c. Peer Review dated 07/26/01
 - c. TWCC 62 forms
 - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 08/06/02. Per Rule 133.307 (g) (4) or (5), the carrier representative signed for the copy on 08/07/02. The response from the insurance carrier was received in the Division on 08/21/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Additional Information submitted by Requestor is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: The requestor did not submit a position statement.
2. Respondent: Letter dated 08/21/02.

“The request fails to provide the information required by TWCC Rule 133.307 and Form TWCC-60. In particular, the request as served on the carrier fails to include: an adequate discussion of how the TWCC guidelines and policies impact the issue. Preauthorization does not guarantee payment. Audit for each item billed as to necessity is still required by SOAH Decisions. Audit for compliance with the MFG, Treatment Guidelines and Ground Rules is not foreclosed by preauthorization. Finally, preauthization[sic] was for a CPM. At best, what was done was work hardening, which the patient had allegedly already received. If CPM was needed, then WH was not. Carrier should be reimbursed the WH if CPM was necessary.”

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are those commencing on 08/02/01 and extending through 09/14/01.
2. The denial listed on the EOB is “V-PER 7-26-01 PEER REVIEW, NO FURTHER TREATMENT IS CAUSALLY RELATED TO THE ALLEGED WORK INJURY.”
3. The carrier filed a TWCC-21, dated 01/08/02 which stated, “Based on newly discovered evidence carrier denies any/all compensability.”
4. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB Denial Code(s)	MARS	REFERENCE	RATIONALE:
08/02/01	97799-CPAP	\$1,400.00	\$0.00	V	DOP	TWCC Rule Sec.409.021(d) and 409.022 TWCC Rule 124.3 (a)(3)(B)	<p>The dates of service in dispute have been denied “V, Per 7-26-01 peer review, no future treatment is causally related to the alleged work injury.”</p> <p>The provider requested and received preauthorization, on 7-03-01 and 7-31-01, for a total of 30 visits.</p> <p>According to § 409.022 and § 409.021 (d), “An insurance carrier may reopen the issue of compensability of an injury if there is a finding of evidence that could not reasonably have been discovered earlier.”</p> <p>The carrier submitted a TWCC-21, dated 01/08/02 that indicated, “Based on newly discovered evidence. Carrier denies any/all compensability.”</p> <p>According to TWCC Rule, 124.3, “If the carrier wants to deny compensability of or liability for the injury after the 60th day after it received written notice of the injury</p> <p>(A) the carrier must establish that the evidence that it is basing its denial on could not have reasonably been discovered earlier.</p> <p>(B) The carrier is liable for and shall pay all benefits that were payable prior to and after filing the notice of denial until the Commission has made a finding that the evidence could not have reasonably been discovered earlier.”</p> <p>Reimbursement is recommended in the amount of \$42,000.00.</p>
08/03/01		\$1,400.00	\$0.00	V			
08/06/01		\$1,400.00	\$0.00	V			
08/07/01		\$1,400.00	\$0.00	V			
08/08/01		\$1,400.00	\$0.00	V			
08/09/01		\$1,400.00	\$0.00	V			
08/10/01		\$1,400.00	\$0.00	V			
08/13/01		\$1,400.00	\$0.00	V			
08/14/01		\$1,400.00	\$0.00	V			
08/16/01		\$1,400.00	\$0.00	V			
08/17/01		\$1,400.00	\$0.00	V			
08/20/01		\$1,400.00	\$0.00	V			
08/21/01		\$1,400.00	\$0.00	V			
08/22/01		\$1,400.00	\$0.00	V			
08/23/01		\$1,400.00	\$0.00	V			
08/24/01		\$1,400.00	\$0.00	V			
08/27/01		\$1,400.00	\$0.00	V			
08/28/01		\$1,400.00	\$0.00	V			
08/29/01		\$1,400.00	\$0.00	V			
08/30/01		\$1,400.00	\$0.00	V			
08/31/01		\$1,400.00	\$0.00	V			
09/04/01		\$1,400.00	\$0.00	V			
09/05/01		\$1,400.00	\$0.00	V			
09/06/01		\$1,400.00	\$0.00	V			
09/07/01		\$1,400.00	\$0.00	V			
09/10/01		\$1,400.00	\$0.00	V			
09/11/01		\$1,400.00	\$0.00	V			
09/12/01		\$1,400.00	\$0.00	V			
09/13/01		\$1,400.00	\$0.00	V			
09/14/01		\$1,400.00	\$0.00	V			
Totals		\$42,000.00	\$0.00				The Requestor is entitled to reimbursement in the amount of \$42,000.00.

The above Findings and Decision are hereby issued this 3rd day of December 2002.

Michael Bucklin
Medical Dispute Resolution Officer
Medical Review Division

Mb/mb

V. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$42,000.00 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 3rd day of December 2002.

Judy Bruce
Director of Medical Review
Medical Review Division

JB/mb